THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.1810 OF 2004

DATED: 31-08-2007

Between:

The General Manager, RG-III Area, Singareni Collieries Company Limited, Godavarikhani, Karimnagar District and another.

.. Petitioners

and

The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Hyderabad and others.

.. Respondents

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WRIT PETITION NO.1810 OF 2004

ORDER:

This writ petition is filed seeking a certiorari to call for the records pertaining to the award, dated 23.05.2002, passed in L.C.I.D.No.119 of 2001 on the file of the 1st respondent - Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, and to quash the same as arbitrary and illegal.

The petitioners are the management and the 2nd respondent is the workman. It appears, the 2nd respondent was dismissed from service with effect from 22.01.2001, after conducting an enquiry into the charge of absenteeism. Though the 2nd respondent raised several objections as to conducting of enquiry ex parte, he filed a memo conceding that the enquiry was fairly conducted and, therefore, Exs.W1 to W8 and Exs.M1 to M6 were marked. Thereafter, the matter was taken up for consideration under Section 11-A of the I.D. Act. The Labour Court found that even the previous record of the 2nd respondent was not a happy one and he worked for 116 days during the year 1997, for 144 days during the year 1998 and for 166 days during the year 1999, which shows that he was a habitual absentee. However, since he had put in more than 10 years of service by the time of his dismissal from service, the Labour Court opined that the punishment can be modified and, accordingly, passed an award directing the management to reinstate the 2nd respondent-workman on or before 1st July 2002 as E.P. Operator, wherever vacancy was there either at Medipally or anywhere else, on minimum pay scale as a fresh candidate. It was further made clear that the 2nd respondent is not entitled for any

backwages or seniority in service. Aggrieved by the same, management preferred this writ petition.

Learned counsel for the petitioners-management strenuously conducted that absolutely no reasons were furnished by the Labour Court for passing the award under challenge. Further, the Labour Court did not appreciate the evidence on record properly and came to an erroneous conclusion and, therefore, the impugned award is liable to be set aside.

On the other hand, the learned counsel for the 2nd respondent-workman supported the award passed by the Labour Court stating that the Labour Court, in the facts and circumstances of the case, rightly came to the conclusion that the workman is entitled for reinstatement as a fresh candidate and, hence, the award passed by the Labour Court, while exercising its powers under Section 11-A of the I.D. Act, does not call for any interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

Admittedly, the 2nd respondent conceded that the enquiry was fairly conducted and, therefore, requested the matter may be decided under Section 11-A of the I.D. Act. The Labour Court opined that the previous conduct of the 2nd respondent was also not happy and he worked for 116 days in the year 1997, for 144 days in the year 1998 and for 166 days in the year 1999 and that itself would show that he was a habitual absentee. In view of the fact that the 2nd respondent rendered more than ten years of service by the time of his dismissal, the Labour Court felt that he is entitled for reinstatement afresh. The

Labour Court should have also stated that the punishment of dismissal from service is disproportionate to that of the misconduct alleged, but without recording such finding, it has passed the impugned award. Though there are certain lapses on the part of the Labour Court, I am of the opinion that the matter need not be sent back for reconsideration, since the relief granted was only fresh appointment of the 2nd respondent-workman. I am of the opinion that the lis should be given a quietus at this stage itself. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

C.V. RAMULU, J

31st August, 2007.
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